

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JAMES ARMSTRONG,

Petitioner

V.

UNITED STATES OF AMERICA,

Respondent

.....

CIVIL NO. 1:CV-05-0771

(Judge Rambo)

(Magistrate Judge Blewitt)

MEMORANDUM AND ORDER

Before the court is a May 10, 2005, report of the magistrate judge in which he recommends that the petition for writ of habeas corpus be dismissed for failure to exhaust administrative remedies or, in the alternative, that the petition be denied on the merits. Petitioner has filed objections to the report and recommendation.

Petitioner, an inmate at the United States Penitentiary at Allenwood, Pennsylvania, challenges the Bureau of Prisons' calculations of his good time credits under 18 U.S.C. § § 3624(b). He further argues that he has exhausted his administrative remedies. The court will dismiss the petition on its merits.

Petitioner, in his objections to the report and recommendation, cites cases that are not applicable to this case. He totally ignores a Third Circuit Court of Appeals case which is binding on this court. In *O'Donald v. Johns*, 402 F.3d 177 (3d Cir. 2005), the court upheld the Bureau of Prisons' interpretation of § 3624(b). Furthermore, in *Pacheco-Camacho v. Hood*, 272 F.3d 1266, 1269-70 (9th Cir. 2001),

cert. denied, 535 U.S. 1105 (2002), that court also found the Bureau of Prisons' interpretation of § 3624(b) to be correct and the Supreme Court denied certiorari.

The magistrate judge's recommendation is correct. **IT IS**

THEREFORE ORDERED THAT:

- 1) The court adopts the report and recommendation of Magistrate Judge Blewitt.
- 2) The petition for writ of habeas corpus is **DENIED** on the merits.
- 3) The Clerk of Court shall close the file.

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge

Dated: May 26, 2005.